

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON**

**Caleb Whitfield,**

***Plaintiff,***

**Case No. 3:23-cv-023**

**v.**

**District Judge Thomas M. Rose**

**Correction Officer Gustave, *et al.*,**

**Magistrate Judge Karen L. Litkovitz**

***Defendants.***

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**ORDER ADOPTING REPORT AND RECOMMENDATION (DOC. 65)  
AND DENYING DEFENDANT GUSTAVE’S MOTION TO DISMISS  
FOR FAILURE OF SERVICE OF PROCESS (DOC. 54)**

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Pending before the Court is a Report and Recommendation (Doc. 65) from Magistrate Judge Karen Litkowitz. The Report and Recommendation would have the Court, *inter alia*, deny Defendant Gustave’s Motion to Dismiss for Failure of Service of Process. (Doc. 54).

The Court has reviewed the findings of the Magistrate Judge. Pursuant to 28 U.S.C. § 636(b) and Fed. R. Civ. P. 72(b), this Court has made a *de novo* review of the record in this case. Upon consideration of the foregoing, the Court **ADOPTS** the Report and Recommendations (Doc. 65) in its entirety. The Court **DENIES** Defendant Gustave’s Motion to Dismiss for Failure of Service of Process. (Doc. 54). Additionally, the Court

construes Plaintiff's Response (Doc. 57) as a motion regarding the disclosure of Defendant Gustave's last known address and issues the following order:

- a. The Montgomery County Prosecutor is **DIRECTED** to submit under seal to the Clerk of Court, within fourteen (14) days of the date of its order, a current or last known address where Defendant Gustave may be served with process;
- b. The Montgomery County Prosecutor is **DIRECTED** to file a notice of compliance with the Court after he has fulfilled this requirement;
- c. The Clerk is **DIRECTED** not to post Defendant Gustave's address on the public docket and to redact any documents submitted for filing that bear Defendant Gustave's address;
- d. The Clerk is **DIRECTED** to ensure service upon Defendant Gustave of all documents filed by plaintiff and mail any documents filed by plaintiff to Defendant Gustave at the addresses provided by the Montgomery County Prosecutor, which shall be kept under seal; and
- e. The Court **EXTENDS** the deadline to serve Defendant Gustave to 60 days from the entry of an order directing the U.S. Marshals Service to re-serve Defendant Gustave with process using the address provided under seal.

**DONE** and **ORDERED** this Wednesday, May 14, 2025.

**s/Thomas M. Rose**

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THOMAS M. ROSE  
UNITED STATES DISTRICT JUDGE

